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Executive Registry
84-406

ROUTING AND RECORD SHEET

SUBJECT: (Optional)
ABA Questionnaire on Intelligence Community Oversight

FROM:
Stanley Sporkin
General Counsel

EXTENSION

NO.
OGC-84-1407

DATE
24 January 1984

TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
1. DDCI	25 JAN 1984			Attached is a copy of the response I propose to send to [redacted] regarding STAT the ABA study of oversight and accountability in the Intelligence Community.
2.				
3. DCI	25 Jan.	28 JAN 1984		
4.				
5. General Counsel				
6.				
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FORM 1-79 610 USE PREVIOUS EDITIONS

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QUESTIONNAIRE

A. Criteria for Evaluation

Please indicate the degree of your agreement or disagreement (with any qualifications or reservations) with the following general propositions, which are advanced as bases for the evaluation:

1. The activities of the intelligence agencies should be subject to congressional oversight, and the intelligence budget should be subject, as at present, to the controls inherent in the authorization process.

ANSWER: I agree with both propositions - that the activities of intelligence agencies should be subject to congressional oversight and that the intelligence budget should be subject to the same controls inherent in the authorization process that applies to all activities of the government. Congressional oversight is essential for achieving a consensus within our goverenmental system on the necessity for and direction of U.S. intelligence activities. Such oversight provides the Intelligence Community with a degree of protection that is indispensible to the effective accomplishment of its mission. However, my agreement with these general propositions must be qualified with caveat: the intelligence function is critical to the exercise of two functions which are committed by the Constitution to the President, at least insofar as the execution of those functions is concerned. These functions are, of course, the responsibility to conduct military activities as commander-in-chief, and the formulation and execution of foreign policy as head of state. Consequently, congressional oversight of the intelligence function stands on a somewhat different footing than does oversight with respect to other

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areas such as, for example, execution of policy concerning interstate commerce, in which Congress clearly plays a different role. A somewhat different approach to oversight of the intelligence function is thus necessary to avoid making intelligence agencies the ground on which the President and Congress do battle over their respective responsibilities and authorities.

2. The exercise of congressional oversight and budgetary control at present are satisfactorily adapted to take account of the special circumstances of the intelligence agencies. These include, in particular, the needs for operational secrecy and flexibility and the necessity of giving foreign sources of information and assistance an adequate degree of confidence in the ability of the system to protect secrets.

ANSWER: I agree that the exercise of congressional oversight and budgetary control has a satisfactory record for preserving operational secrecy and establishing confidence within the Executive branch on the ability of the congressional oversight system to preserve secrets. While the Intelligence Community has a high degree of confidence in the ability of the congressional oversight system to protect secrets, one should note the unlikelihood that foreign sources share the same confidence with respect to the overall system as they see it.

3. The provision of intelligence should be an objective and nonpolitical activity. In order to foster this goal, the mechanisms of oversight and accountability for the intelligence agencies should be designed, to as great a degree as possible, so as to insulate the agencies from partisan political controversy; accordingly, the intelligence agencies should be protected from undue political pressures, whether coming from Executive Branch officials or the Congress.

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ANSWER: I agree.

4. Because the activities of the intelligence agencies cannot be exposed to systematic public scrutiny, mechanisms of oversight and accountability must substitute for the role that informed public opinion plays in controlling the activities of other departments and agencies of the federal government. Thus, it is important that the structures of oversight and authorization be perceived by the public as effective and as making the intelligence agencies fully accountable to organs of government which in turn are accountable to the people.

ANSWER: I agree.

5. It is important to ensure that the activities of the intelligence agencies are conducted in accordance with law and, even where there are no clear legal restrictions, that such activities meet a minimum standard of propriety. The latter concept is almost impossible to articulate, given the moral ambiguities that necessarily inhere in the conduct of intelligence activities. Nor is it easy to determine who should set whatever standards are to be applied. Nonetheless certain forms of conduct (e.g. assassination or torture) are widely considered as being unacceptable in all or virtually all circumstances, and a broader range of conduct would be considered by many as acceptable only in exigent circumstances. The structures of oversight and accountability in the intelligence agencies should contribute to the development of such standards and to their application in specific cases and, in particular, for these purposes should bring to bear the viewpoints of individuals outside the operational sphere of responsibility.

ANSWER: I would generally agree that all structures of oversight and accountability, and not just those in the intelligence agencies, should contribute to the development of standards of conduct. However, the application of these standards to specific cases is one that must be carried out by internal mechanisms and structures, beginning with the responsible operating officials and, in appropriate cases, officials who provide legal review and perform the Inspector General

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function. I believe that there is currently adequate opportunity for development and consideration of the view of key officials outside the operational sphere.

6. The quality of the intelligence product should be given a very high priority in the oversight activities of both the Congress and the Executive Branch. The structures of oversight and accountability should be designed to provide objective and independent reviews of intelligence collection, analysis and reporting. The purpose of such reviews should be to ensure the proper utilization of budgetary resources, adequate attention to long-range planning and to meeting intelligence needs of national interest, and the objectivity and sophistication of analysis and the reported intelligence product.

ANSWER: I agree that quality of the intelligence product should be given a high priority by oversight mechanisms. As will be seen by my views with respect to Question B.4. infra, I think there are adequate internal mechanisms to review the quality of intelligence. Congressional review is important, and is particularly helpful and useful when it looks at broad issues concerning the intelligence production process. External oversight review would be least helpful and effective by urging the establishment of additional formal bureaucratic devices, either within or outside the Executive branch, to address this issue. Finally, oversight in this area should be conducted in moderation, since too much second guessing may stifle initiative and necessary risk-taking.

7. Given the special nature of the intelligence function, the normal processes of the Judicial Branch are not well adapted to play a role in the oversight of intelligence operational activities, and an extension of the secret judicial techniques embodied in the Foreign Intelligence Surveillance Act, unless constitutionally mandated, seems unwise.

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ANSWER: The FISA court represents a balance of the government's need for secrecy with a due concern for the protection of individual rights. Now that a consensus has been achieved on that balance, the area of greatest concern, electronic surveillance within the United States, has been addressed. Current oversight and control mechanisms, particularly various internal legal reviews, adequately provide protection in any analogous operational areas.

B. Specific Oversight Issues

Please comment on the following specific issues of oversight and accountability.

1. Covert Actions:

(a) Are there adequate mechanisms in place to ensure careful consideration of the legality, feasibility and desirability of covert action proposals?

ANSWER: Yes. National Security Council and other internal policy review mechanisms provide for careful consideration of feasibility and desirability. Internal legal reviews, including review by the CIA General Counsel and the Attorney General, ensures careful consideration of the legality of such proposals.

(b) Do current structures within the Executive Branch ensure that the consistency of covert action proposals with U.S. foreign policy objectives is judged by officials with foreign policy responsibility and that the CIA does not become by default a policy-making institution?

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ANSWER: Covert action proposals are formulated within the context of efforts to advance U.S. foreign policy objectives. Officials and groups within various agencies, including the Department of State, play a role throughout. The ultimate check on consistency with U.S. foreign policy objectives is, of course, the necessity to obtain Presidential approval.

(c) Is there satisfactory oversight within the Executive Branch and the Congress of the way in which approved covert action operations are carried out?

ANSWER: Yes, within both the Executive branch and Congress there are periodic reviews by appropriate mechanisms.

(d) Are there additional oversight mechanisms (e.g. some form of specific approval by the Congress that you think desirable with respect to covert actions?

ANSWER: No. A delicate balance has already been struck in this area. A prior approval requirement would paralyze the decision-making process. Current arrangements go as far as is wise and may already strain the balance.

2. Sensitive Intelligence Collection:

(a) Are there satisfactory controls over the legality of sensitive intelligence collection operations?

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ANSWER: Yes, Executive Order 12333, internal regulations and procedures, and the statutory oversight process ensure adequate legal review.

(b) Are there mechanisms in place to ensure a proper degree of consideration (including obtaining objective opinion outside the operational sphere) of proposed sensitive collection operations which carry potential serious adverse consequences or raise serious questions of propriety?

ANSWER: Yes, internal legal and policy reviews ensure adequate consideration from outside the operational sphere of such sensitive collection operations.

(c) Are the mechanisms in place sufficient to ensure that sensitive collection efforts are focused on intelligence collection targets of true significance?

ANSWER: There are a number of mechanisms to ensure that sensitive collection efforts are focused on intelligence targets of true significance. These include both review and approval mechanisms within the Intelligence Community and the National Security Council policy review structure.

3. Operations Within the United States:

(a) Do existing mechanisms ensure compliance with legal restrictions on domestic operations?

ANSWER: Yes. Procedures established pursuant to Executive Order 12333 provide specific guidance for

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various types of activities. Some activities require a specific legal review and approval in each case.

(b) Are there adequate checks on domestic operations to ensure that potential interference with individual rights and the integrity of private endeavors is held to a minimum and occurs only when justified by intelligence needs rising to an appropriate threshhold of seriousness?

ANSWER: Yes, such checks are embodied in the National Security Act of 1947, Executive Order 12333, and the procedures and review and approval requirements discussed in my answer to 3.(a) above. It should be pointed out that the activities of CIA are not really focused in the United States and that there is thus little potential for interference with individual rights or interests.

4. Quality of Intelligence:

(a) Are there adequate mechanisms to ensure that the United States is obtaining intelligence of the timeliness, reliability and quality necessary to the national security?

ANSWER: There are a number of mechanisms that address the timeliness, reliability and quality of intelligence. These include the President's Foreign Intelligence Advisory Board, the Senior Review Panel of the Director of Central Intelligence, the Product Evaluation Staff of the Directorate of Intelligence,

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CIA and the analysis and production subcommittees of the two oversight committees of the Congress.

(b) Are there sufficient protections to insulate the intelligence analysis and reporting process from political pressures or bias?

ANSWER: Many of the same mechanisms cited in 4(a) above also help to insure that analysis is as objective and as honest as it can be. Beyond these mechanisms, however, the surest safeguard of the integrity of the analytic process from political pressure or bias is the integrity of the analysts and their managers. Intelligence is too important to the United States for there to be any room for skewing intelligence to meet political pressure or bias and senior policymakers recognize this.

(c) Is there an adequate system for independent evaluation of the quality of intelligence?

ANSWER: As I have already detailed, the President's Foreign Intelligence Advisory Board, the Senior Review Panel of the Director of Central Intelligence, the Product Evaluation Staff of the Directorate of Intelligence, CIA and the analysis and production subcommittees of the two oversight committees of the Congress ensure adequate independent evaluation of the quality of intelligence.

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C. Possible Institutional Changes

Please briefly indicate your views as to the desirability of the following institutional changes which have been mentioned as possible ways to improve oversight and accountability in the Intelligence Community:

1. The present congressional oversight committees should be merged into a joint committee.

ANSWER: In my opinion, a joint intelligence committee should not be established unless there are compelling reasons to do so or unless it would result in advantages for both the Congress and the Executive branch. My perception is that at present things seem to be working fairly well and that there is thus no need for change. However, some experimentation in this area may be worthwhile, such as joint briefings or budget reviews. However, each committee's role in voting, making decisions, and other similar activities should probably stay separate.

2. There should be a bipartisan National Intelligence Board within the Executive Branch (with members appointed by the President with the advice and consent of the Senate for staggered terms overlapping presidential terms) to oversee intelligence activities.

ANSWER: The President's Foreign Intelligence Advisory Board and the President's Intelligence Oversight Board currently play a role in this area. Creation of another board, with members appointed by the President with the advice and consent of the Senate, would appear to be unnecessary bureaucratic layering without any increased or added benefits.

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3. If there were such a National Intelligence Board, it should

a) Deal only with issues of oversight and propriety;

b) assume responsibilities now held by the DCI for long-range planning, budgetary review and establishment of intelligence policy.

ANSWER: It should probably have the same functions as the PFIAB and IOB.

4. Such a Board should be required by law to give an advisory opinion on covert actions and sensitive collection operations and to review such activities periodically.

5. Such a Board should be required to approve all covert actions and sensitive collection operations.

ANSWER: Advice with respect to covert actions and sensitive collection operations can best be given by officials who have to deal with the realities of getting these activities accomplished. Approvals for these activities are now respectively granted by the President for covert actions and by other officials of the Community for sensitive collection activities. To give an approval responsibility to a group that is insulated from the problems that such activities are designed to tackle would detract from an effective ability to operate. This sort of bureaucratic layering would probably also result in micro-management.

6. Each major intelligence agency should have a General Counsel and an Inspector General appointed by the President with the advice and consent of the Senate.

ANSWER: I disagree, largely because the present arrangements are working adequately.

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7. The Director of Central Intelligence should be appointed, as is the Director of the Federal Bureau of Investigation, for a fixed term.

ANSWER: The nature of the duties and functions of the DCI and the Director, FBI are very different. The DCI needs closer interaction with the President because of ever-changing intelligence requirements and priorities. This sort of bureaucratic requirement would diminish, rather than enhance, the DCI's position.

8. The respective functions of the principal intelligence agencies should be embodied in a statutory "charter".

ANSWER: A statutory charter is not necessary since the principal intelligence functions are presently set forth in Executive Orders and other Executive branch directives.

9. A statutory charter should be adopted also to define rules on the conduct of intelligence activities now found in executive order.

ANSWER: Statutory charters for this purpose are not necessary. As the last charter exercise showed, statutory guidelines would of necessity be general, with exceptions and specific operating guidelines embodied in classified, non-public procedures.

10. There should be a national intelligence advisor to the President separate from any intelligence collection or analytic agency.

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a) Such an official should exercise functions over the Intelligence Community similar to those of the DCI.

b) Such an official should play advisory role only and have no "line" authority.

ANSWER: The functions that such an official would perform are currently performed by the DCI. To add another layer would adversely impact on the relationship that now exists and would clearly be harmful to the national interest.

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9. A statutory charter should be adopted also to define rules on the conduct of intelligence activities now found in executive order.

ANSWER: Statutory charters for this purpose are not necessary. As the last charter exercise showed, statutory guidelines would of necessity be general, with exceptions and specific operating guidelines embodied in classified, non-public procedures.

10. There should be a national intelligence advisor to the President separate from any intelligence collection or analytic agency.

a) Such an official should exercise functions over the Intelligence Community similar to those of the DCI.

b) Such an official should play advisory role only and have no "line" authority.

ANSWER: ~~I do not think there is a demonstrated need for such a "separate" intelligence advisor to the President. Many of~~ The functions that such an official would perform are currently performed by the DCI. ~~Second, to the extent that such an official would be divorced from any analytic base, he would likely be ineffectual.~~

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10. There should be a national intelligence advisor to the President separate from any intelligence collection or analytic agency.

a) Such an official should exercise functions over the Intelligence Community similar to those of the DCI.

b) Such an official should play advisory role only and have no "line" authority.

ANSWER: I do not think there is a demonstrated need for such a "separate" intelligence advisor to the President. The Assistant to the President for National Security Affairs already plays a role in this area. Anything more formal would be unnecessarily bureaucratic and counterproductive. To add another layer would adversely impact on the relationship that now exists, and would be harmful to the national interest.

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QUESTIONNAIRE

A. Criteria for Evaluation

Please indicate the degree of your agreement or disagreement (with any qualifications or reservations) with the following general propositions, which are advanced as bases for the evaluation:

1. The activities of the intelligence agencies should be subject to congressional oversight, and the intelligence budget should be subject, as at present, to the controls inherent in the authorization process.

ANSWER: I agree with both propositions - that the activities of intelligence agencies should be subject to congressional oversight and that the intelligence budget should be subject to the same controls inherent in the authorization process that applies to all activities of the government. However, my agreement with these general propositions must be qualified with caveat: the intelligence function is critical to the exercise of two functions which are committed by the Constitution to the President, at least insofar as the execution of those functions is concerned. These functions are, of course, the responsibility to conduct military activities as commander-in-chief, and the formulation and execution of foreign policy as head of state. Consequently, congressional oversight of the intelligence function stands on a somewhat different footing than does oversight with respect to other areas such as, for example, execution of policy concerning interstate commerce, in which Congress clearly plays a different role. A somewhat different approach to oversight of the intelligence function is thus necessary to avoid making

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intelligence agencies the ground on which the President and Congress do battle over their respective responsibilities and authorities.

2. The exercise of congressional oversight and budgetary control at present are satisfactorily adapted to take account of the special circumstances of the intelligence agencies. These include, in particular, the needs for operational secrecy and flexibility and the necessity of giving foreign sources of information and assistance an adequate degree of confidence in the ability of the system to protect secrets.

ANSWER: I agree that the exercise of congressional oversight and budgetary control has a satisfactory record for preserving operational secrecy and establishing confidence within the Executive branch on the ability of the congressional oversight system to preserve secrets. However, it is somewhat unrealistic to believe that various foreign sources and cooperating parties can distinguish between operation of congressional oversight and operation of the American system generally. Thus, "the system" referred to in this proposition must be viewed as including the Freedom of Information Act and the press, and the perceptions that the Act and the press foster. While the Intelligence Community has a high degree of confidence in the ability of the congressional oversight system to protect secrets, it is doubtful that foreign sources share the same confidence with respect to the overall system as they see it.

3. The provision of intelligence should be an objective and nonpolitical activity. In order to foster this goal, the

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mechanisms of oversight and accountability for the intelligence agencies should be designed, to as great a degree as possible, so as to insulate the agencies from partisan political controversy; accordingly, the intelligence agencies should be protected from undue political pressures, whether coming from Executive Branch officials or the Congress.

ANSWER: I agree, but we need to be careful how such insulation from partisan political controversy is accomplished. Because of the importance of the intelligence function to the exercise of Presidential responsibilities, care needs to be taken that those charged with exercising the function are not isolated from the President.

4. Because the activities of the intelligence agencies cannot be exposed to systematic public scrutiny, mechanisms of oversight and accountability must substitute for the role that informed public opinion plays in controlling the activities of other departments and agencies of the federal government. Thus, it is important that the structures of oversight and authorization be perceived by the public as effective and as making the intelligence agencies fully accountable to organs of government which in turn are accountable to the people.

ANSWER: I agree, with the understanding that accountability should be read to mean accountability in a broad sense and not as imposing a requirement for consensus with respect to the conduct of specific activities.

5. It is important to ensure that the activities of the intelligence agencies are conducted in accordance with law and, even where there are no clear legal restrictions, that such activities meet a minimum standard of propriety. The latter concept is almost impossible to articulate, given the moral ambiguities that necessarily inhere in the conduct of intelligence activities. Nor is it easy to determine who should set whatever standards are to be applied. Nonetheless certain forms of conduct (e.g. assassination or torture) are widely considered as being unacceptable in all or virtually all circumstances, and a broader range of conduct would be

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considered by many as acceptable only in exigent circumstances. The structures of oversight and accountability in the intelligence agencies should contribute to the development of such standards and to their application in specific cases and, in particular, for these purposes should bring to bear the viewpoints of individuals outside the operational sphere of responsibility.

ANSWER: I would generally agree that all structures of oversight and accountability, and not just those in the intelligence agencies, should contribute to the development of standards of conduct. However, the application of these standards to specific cases is one that must be carried out by internal mechanisms and structures, beginning with the responsible operating officials and, in appropriate cases, officials who provide legal review and perform the Inspector General function. I believe that there is currently adequate opportunity for development and consideration of the view of key officials outside the operational sphere.

6. The quality of the intelligence product should be given a very high priority in the oversight activities of both the Congress and the Executive Branch. The structures of oversight and accountability should be designed to provide objective and independent reviews of intelligence collection, analysis and reporting. The purpose of such reviews should be to ensure the proper utilization of budgetary resources, adequate attention to long-range planning and to meeting intelligence needs of national interest, and the objectivity and sophistication of analysis and the reported intelligence product.

ANSWER: I agree that quality of the intelligence product should be given a high priority by oversight mechanisms. As will be seen by my views with respect to Question B.4. infra, I think there are adequate internal mechanisms to review the quality of intelligence. Congressional review is important,

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and is particularly helpful and useful when it looks at broad issues concerning the intelligence production process. External oversight review would be least helpful and effective by urging the establishment of additional formal bureaucratic devices, either within or outside the Executive branch, to address this issue. Finally, oversight in this area should be conducted in moderation, since too much second guessing may stifle initiative and necessary risk-taking.

7. Given the special nature of the intelligence function, the normal processes of the Judicial Branch are not well adapted to play a role in the oversight of intelligence operational activities, and an extension of the secret judicial techniques embodied in the Foreign Intelligence Surveillance Act, unless constitutionally mandated, seems unwise.

ANSWER: The FISA court represents a balance of the government's need for secrecy with a due concern for the protection of individual rights. Now that a consensus has been achieved on that balance, the area of greatest concern, electronic surveillance within the United States, has been addressed. Current oversight and control mechanisms, particularly various internal legal reviews, adequately provide protection in any analogous operational areas.

B. Specific Oversight Issues

Please comment on the following specific issues of oversight and accountability.

1. Covert Actions:

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(a) Are there adequate mechanisms in place to ensure careful consideration of the legality, feasibility and desirability of covert action proposals?

ANSWER: Yes. The National Security Council policy review mechanisms provide careful consideration of feasibility and desirability. Internal legal reviews, including review by the CIA General Counsel and the Attorney General, ensures careful consideration of the legality of such proposals.

(b) Do current structures within the Executive Branch ensure that the consistency of covert action proposals with U.S. foreign policy objectives is judged by officials with foreign policy responsibility and that the CIA does not become by default a policy-making institution?

ANSWER: Covert action proposals are formulated within the context of efforts to advance U.S. foreign policy objectives. Officials and groups within various agencies, including the Department of State, play a role throughout. The ultimate check on consistency with U.S. foreign policy objectives is, of course, the necessity to obtain Presidential approval.

(c) Is there satisfactory oversight within the Executive Branch and the Congress of the way in which approved covert action operations are carried out?

ANSWER: Yes, within both the Executive branch and Congress there are periodic reviews by appropriate mechanisms.

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(d) Are there additional oversight mechanisms (e.g. some form of specific approval by the Congress that you think desirable with respect to covert actions?

ANSWER: No. A delicate balance has already been struck in this area. A prior approval requirement would paralyze the decision-making process. Current arrangements go as far as is wise and may already strain the balance.

2. Sensitive Intelligence Collection:

(a) Are there satisfactory controls over the legality of sensitive intelligence collection operations?

ANSWER: Yes, Executive Order 12333, internal regulations and procedures, and the statutory oversight process ensure adequate legal review.

(b) Are there mechanisms in place to ensure a proper degree of consideration (including obtaining objective opinion outside the operational sphere) of proposed sensitive collection operations which carry potential serious adverse consequences or raise serious questions of propriety?

ANSWER: Yes, internal legal and policy reviews ensure adequate consideration from outside the operational sphere of such sensitive collection operations.

(c) Are the mechanisms in place sufficient to ensure that sensitive collection efforts are focused on intelligence collection targets of true significance?

ANSWER: There are a number of mechanisms to ensure that sensitive collection efforts are focused on

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intelligence targets of true significance. These include both review and approval mechanisms within the Intelligence Community and the National Security Council policy review structure.

3. Operations Within the United States:

(a) Do existing mechanisms ensure compliance with legal restrictions on domestic operations?

ANSWER: Yes. Procedures established pursuant to Executive Order 12333 provide specific guidance for various types of activities. Some activities require a specific legal review and approval in each case.

(b) Are there adequate checks on domestic operations to ensure that potential interference with individual rights and the integrity of private endeavors is held to a minimum and occurs only when justified by intelligence needs rising to an appropriate threshhold of seriousness?

ANSWER: Yes, such checks are embodied in the National Security Act of 1947, Executive Order 12333, and the procedures and review and approval requirements discussed in my answer to 3.(a) above. It should be pointed out that the activities of CIA are not really focused in the United States and that there is thus little potential for interference with individual rights or interests.

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4. Quality of Intelligence:

(a) Are there adequate mechanisms to ensure that the United States is obtaining intelligence of the timeliness, reliability and quality necessary to the national security?

ANSWER: There are a number of mechanisms that address the timeliness, reliability and quality of intelligence. These include the President's Foreign Intelligence Advisory Board, the Senior Review Panel of the Director of Central Intelligence, the Product Evaluation Staff of the Directorate of Intelligence, CIA and the analysis and production subcommittees of the two oversight committees of the Congress.

(b) Are there sufficient protections to insulate the intelligence analysis and reporting process from political pressures or bias?

ANSWER: Many of the same mechanisms cited in 4(a) above also help to insure that analysis is as objective and as honest as it can be. Beyond these mechanisms, however, the surest safeguard of the integrity of the analytic process from political pressure or bias is the integrity of the analysts and their managers. Intelligence is too important to the United States for there to be any room for skewing intelligence to meet political pressure or bias and senior policymakers recognize this.

(c) Is there an adequate system for independent evaluation of the quality of intelligence?

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ANSWER: As I have already detailed, the President's Foreign Intelligence Advisory Board, the Senior Review Panel of the Director of Central Intelligence, the Product Evaluation Staff of the Directorate of Intelligence, CIA and the analysis and production subcommittees of the two oversight committees of the Congress ensure adequate independent evaluation of the quality of intelligence.

C. Possible Institutional Changes

Please briefly indicate your views as to the desirability of the following institutional changes which have been mentioned as possible ways to improve oversight and accountability in the Intelligence Community:

1. The present congressional oversight committees should be merged into a joint committee.

ANSWER: In my opinion, a joint intelligence committee should not be established unless there are compelling reasons to do so or unless it would result in advantages for both the Congress and the Executive branch. My perception is that at present things seem to be working fairly well and that there is thus no need for change. However, some experimentation in this area may be worthwhile, such as joint briefings or budget reviews. However, each committee's role in voting, making decisions, and other similar activities should probably stay separate.

2. There should be a bipartisan National Intelligence Board within the Executive Branch (with members appointed by the

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President with the advice and consent of the Senate for staggered terms overlapping presidential terms) to oversee intelligence activities.

ANSWER: The President's Foreign Intelligence Advisory Board and the IOB currently play a role in this area. Creation of another board, with members appointed by the President with the advice and consent of the Senate, would appear to be unnecessary bureaucratic layering without any increased or added benefits.

3. If there were such a National Intelligence Board, it should

a) Deal only with issues of oversight and propriety;

b) assume responsibilities now held by the DCI for long-range planning, budgetary review and establishment of intelligence policy.

ANSWER: It should probably have the same functions as the PFIAB and IOB.

4. Such a Board should be required by law to give an advisory opinion on covert actions and sensitive collection operations and to review such activities periodically.

5. Such a Board should be required to approve all covert actions and sensitive collection operations.

ANSWER: Advice with respect to covert actions and sensitive collection operations can best be given by officials who have to deal with the realities of getting these activities accomplished. Approvals for these activities are now respectively granted by the President for covert actions and by other officials of the Community for sensitive collection activities.

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To give an approval responsibility to a group that is insulated from the problems that such activities are designed to tackle would detract from an effective ability to operate. This sort of bureaucratic layering would probably also result in micro-management.

6. Each major intelligence agency should have a General Counsel and an Inspector General appointed by the President with the advice and consent of the Senate.

ANSWER: I disagree, largely because the present arrangements are working adequately.

7. The Director of Central Intelligence should be appointed, as is the Director of the Federal Bureau of Investigation, for a fixed term.

ANSWER: The nature of the duties and functions of the DCI and the Director, FBI are very different. The DCI needs closer interaction with the President because of ever-changing intelligence requirements and priorities. This sort of bureaucratic requirement would diminish, rather than enhance, the DCI's position. Thus, the position should be one that each President has the opportunity to fill.

8. The respective functions of the principal intelligence agencies should be embodied in a statutory "charter".

ANSWER: A statutory charter is not necessary since the principal intelligence functions are presently set forth in Executive Orders and other Executive branch directives.

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9. A statutory charter should be adopted also to define rules on the conduct of intelligence activities now found in executive order.

ANSWER: Statutory charters for this purpose are not necessary. As the last charter exercise showed, statutory guidelines would of necessity be general, with exceptions and specific operating guidelines embodied in classified, non-public procedures.

10. There should be a national intelligence advisor to the President separate from any intelligence collection or analytic agency.

a) Such an official should exercise functions over the Intelligence Community similar to those of the DCI.

b) Such an official should play advisory role only and have no "line" authority.

ANSWER: The functions that such an official would perform are currently performed by the DCI. To add another layer would adversely impact on the relationship that now exists and would clearly be harmful to the national interest.

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